IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 16171 of 2004

Between:

Gundaji, S/o. Nagaiah,
R/o. Chinna Edgi Vg. Jukkal Mandal, Nizamabad District.

..... PETITIONER

AND

1 The Collector (Panchayat Wing) Nizamabad, Nizamabad District.
2 The District Panchayat Officer, Nizamabad, Nizamabad District.
3 The Divisional Panchayat Officer, Bodhan, Nizamabad District.
4 The Extension Officer (PR & RD) Jukkal, Nizamabad District.
5 The Panchayat Secretary, Gram Panchayat, Chinna Edgi Vg.
Jukkal Mandal, Nizamabad District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of Writ of CERTIORARI call for the records relating to the impugned order passed by the first respondent vide No. 441/2004-B5/Pts, dt. 23-8-2004 and QUASH the same by duly declaring the order passed bys the first respondent placing the petitioner under suspending for a period of 3 months with immediate effect by invoking the provisions under Sec.249(6) of A.P. Panchayat Raj Act, 1994 without specifically issuing any notice as contemplated under first provision to Sec.249(6) of the A.P. Panchayat Raj Act, 1994 and also contrary to well settled principles of law laid down while adjudicating the issues under Sec.249 of A.P. Panchayat Raj Act, 1994.

For the Petitioner: MR.V.RAVI KIRAN RAO, Advocate

For the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORAL ORDER:

The petitioner who was elected as Sarpanch of Gram Panchayat, Chinna Edgi, Jukkal Mandal, Nizamabad District was placed under suspension for a period of three months in exercise of powers conferred under Sub-section (6) of Section 249 of Andhra Pradesh Panchayat Raj Act, 1994 (for short "the Act") through the impugned order dt. 23-8-2004 of the Collector (Panchayat Wing) Nizamabad, the legality and validity of which is challenged in the present writ petition stating that a show cause notice was issued under Section 249(1) on 3-7-2004 to the petitioner calling upon him to show cause as to why he should not be removed from the office of the Sarpanch for mis-utilisation of funds, to which the petitioner submitted his explanation. No orders as such were passed on the explanation submitted by the petitioner; therefore, issuance of impugned proceedings is contrary to the first proviso to sub-section (6) of Section 249 of the Act.

Learned Government Pleader on instructions fairly submits that no notice was issued under Sec.249(6) even though first proviso to sub-section (6) of Section 249 mandates that no order placing the petitioner under suspension shall be passed unless the person concerned has had an opportunity of making a representation against the action proposed.

In view of the same, impugned order dt.23-8-2004 passed by the Collector (Panchayat Wing), Nizamabad is set-aside and the respondents are at liberty to follow the procedure as contemplated under the Act by issuing show cause notice against the action proposed.

The writ petition is accordingly allowed.

A.GOPAL REDDY,J

DT.4-10-2004

Note: CC in one week

(BO)

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To

1 The Collector (Panchayat Wing) Nizamabad, Nizamabad District.
2 The District Panchayat Officer, Nizamabad, Nizamabad District.
3 The Divisional Panchayat Officer, Bodhan, Nizamabad District.
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Jukkal Mandal, Nizamabad District.

6 2CCs to the Govt.,Pleader for Panchayat Raj, High Court Buildings, Hyderabad (OUT)

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